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December 20, 2023

VIA ECF

The Honorable Eric N. Vitaliano
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: United States v. Javier Aguilar, No. 20 Cr. 390 (ENV) (E.D.N.Y.)

Dear Judge Vitaliano,

We write on behalf of Defendant Javier Aguilar in response to the government's second letter requesting the Court's guidance on whether it will seek live testimony from the government's experts to draft jury instructions on Ecuadorian and Mexican bribery law. ECF No. 221. As Mr. Aguilar explained in his earlier letter, "the government's expert disclosures, and its proposed jury instructions that derive from its experts' opinions, are incorrect in material respects," including because they misstate the applicable foreign law and because they depend on disputed facts that the government has the burden to prove at trial. ECF No. 212. Mr. Aguilar accordingly objected to the government's proposed instructions on "both Ecuadorian and Mexican law." *Id.* (The government's latest letter therefore is mistaken to the extent that it asserts Mr. Aguilar disputed only the government's proposed instruction on Mexican bribery law.)

The government now requests that Mr. Aguilar "articulate the bas[e]s for his disagreement" with those proposed instructions "before the Court decides whether it needs to hear [expert] testimony." ECF No. 221.

Mr. Aguilar respectfully submits that his positions with respect to these instructions will be evident on December 26, 2023—when, in accordance with Part V.C.3 of the Court's individual rules, he submits his proposed jury instructions, including those that properly state Ecuadorian and

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Mexican bribery law. Mr. Aguilar will email all his proposed jury instructions to the Court's case manager, Mr. Villanueva, on that date.

Respectfully submitted,

/s/ Daniel R. Koffmann

Daniel R. Koffmann

Counsel for Defendant Javier Aguilar

cc: Counsel of Record (via ECF)